



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,409	10/16/2001	John W. Lewis JR.	21488/04064	4486

24024 7590 12/07/2004

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

EXAMINER

JOHNSON, BLAIR M

ART UNIT PAPER NUMBER

3634

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/978,409

Applicant(s)

LEWIS ET AL.

Examiner

Blair M. Johnson

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-10,12-20 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5,7-10 and 12-24 is/are allowed.
- 6) ☒ Claim(s) 1,3,4,25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

Claims 25 and 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Belvin.

See "flange" 7, sloping groove 10, door 4, hinges 16 and sloping rib 17.

Claim Rejections - 35 USC § 103

Claims 1,3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sargent et al.

See continuous seal 42. Providing seal 42 in segments to ease installation would have been obvious to one of ordinary skill in the art. See continuous rib 50. The upper and side frame members define a "U" and the bottom frame element is a "threshold".

Allowable Subject Matter

Claims 5,7-10 and 12-24 are allowed.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive.

It is noted that the amendments to the specification are not in proper form. The paragraphs in which changes are made must be submitted in their entirety. The Examiner will accept the present amendment but these amendments must be made following the proper procedure.

Applicant states that Sargent teaches away from using two sealing members to establish his continuous seal since he is concerned with providing a weather tight seal. It is noted that Applicant has provided a two member seal and that he, too, is concerned with providing a weather tight seal. Clearly, this two member seal does not teach away

from forming a weather tight seal in Applicant's mind so it could not be held that such would teach away from the similar teaching by Sargent. It is clearly obvious that mounting or replacing a continuous peripheral seal that exists in two pieces is much easier than mounting or replacing a one piece peripheral seal, which is ample motivation to modify the seal of Sargent to be of two, or more, pieces if in fact it does not already exist in two or more pieces.

Applicant also argues against the Examiner's position concerning the "outwardly" extending rib. However, the claims establish no basis whatsoever for a specific directional orientation such as "outwardly". "Outwardly" reads on rib 50 in Sargent in that it extends outwardly from flange 16. Applicant cannot assume such a narrow meaning for such a generic descriptive term as "outwardly".

Applicant's frame defines an "unbroken sealing surface", claim 1. Now he argues that there are two different portions, one U-shaped and a bridging member. However, once assembled, which is the subject of the claims, a continuous frame is defined, as well as recited in claim 1. The frame of Sargent is defined by four sides, three of which define a U and the fourth side extends between ends of the U. This clearly is the equivalent of Applicant's assembled frame. Applicant has not defined in the claims that the U portion is a separate and distinct element from the bridging portion.

Concerning Belvin as applied to claims 25 and 26, a "flange" is defined as "A protruding... edge used to strengthen an object, hold it in place, or attach it to another object", American Heritage Dictionary. Element 7 in Belvin clearly meets this broad definition. Groove 10 "extends along" the flange 7, which is also a very broad limitation.

The groove has a sloping side which conforms with the sloping side of rib 17. The embodiment of Fig. 4 is comparable to the embodiment of Fig. 2.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (703) 308-0526. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3634

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Blair M. Johnson
Primary Examiner
Art Unit 3634

BMJ
12/06/04